REMARKS

Claims 1-19 are pending in this application. Claims 1, 5, 8, 11, 14, 16, and 18-19 are independent. In light of the amendments and remarks made herein, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections.

By this Amendment, Applicant has amended the claims to more appropriately recite the present invention. It is respectfully submitted that these amendments are being made without conceding the propriety of the Examiner's rejection, but merely to timely advance prosecution of the present application.

In the outstanding Official Action, the Examiner rejected claims 1-19 under 35 U.S.C. § 103(a) as being unpatentable over *Okazaki et al.* (JP 11-212995) in view of *Ludtke et al.* (USP 6,434,596). Applicant respectfully traverses this rejection.

Prior Art Rejections

In response to Applicant's arguments included in the Reply filed January 5, 2004, wherein the Applicant argued that the *Ludtke et al.* reference fails to teach or suggest a schedule generating means for generating and storing scheduling data, the Examiner merely responds by asserting *Ludtke et al.* discloses a single apparatus that schedules and processes requests without using a proxy device, citing to col. 2, lines 11-19. Applicant maintains his position that *Ludtke et al.* fails to cure the deficiencies of the teachings of *Okazaki et al.*

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It is respectfully submitted that *Ludtke et al.* discloses at col. 2, lines 11-19, as follows:

> A servicing device may go off-line, for example, when a user temporarily removes or disconnects the servicing device from the AV network or when the user presses a pause button on the servicing device to temporarily halt processing in the servicing device. While the servicing device is off-line, requesting devices and other devices in the AV network must continue to store their requests and the associated data until the servicing device goes on-line again.

As noted above, *Ludtke et al.* merely discloses that while the servicing device is off-line, requesting devices must store their requests and the associated data until the servicing device goes on-line again. However, *Ludtke et al.* fails to teach or suggest that the requesting device also generates and stores schedule data based on the requests and thereafter processes the requests based on the schedule data during on-line operation as recited in the claims. As *Ludtke et al.* merely discloses storing requests and fails to teach or suggest generating scheduling data based on the requests during off-line operation, it is respectfully submitted that *Ludtke et al.* fails to cure the deficiencies of the teachings of *Okazaki et al.*, assuming these references are combinable, which Applicant does not admit.

Further, in response to Applicant's arguments included in the Reply filed January 5, 2004, that *Ludtke et al.* fails to teach that the requesting device and the proxy device are used as a single

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device, the Examiner asserts that the Applicant does not explicitly disclose that the data communication apparatus does not use a proxy device and therefore the Examiner takes an overly-broad interpretation of the data communication apparatus of the claims, asserting it can be a proxy device since the proxy device is a computer in a network which has the capability to schedule and process requests. By this Amendment, Applicant has amended claim 1 to recite that the data communication apparatus comprises a schedule generating means for generating and storing scheduling data based on a request for obtaining the hypertext data which occurs in off-line operation in which the data communication apparatus is not connected to the network nor to an intermediary device. As *Ludtke et al.* relies on the use of a proxy device to detect, process, and transfer requests, *Ludtke et al.* requires an additional intermediary device in order to obtain hypertext data stored in a server. Although Applicant maintains that the references fail to teach or suggest the unamended claim, in an attempt to further prosecution and without conceding the propriety of the Examiner's rejection, Applicant has amended the claim to expressly state that no intermediary device is connected to the data communication apparatus. As *Ludtke et al.* fails to cure the deficiencies of the teachings of *Okazaki et al.*, assuming these references are combinable, which Applicant does not admit, by failing to teach or suggest the schedule generating means for

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generating and storing schedule data based on a request which occurs in off-line operation in which the data communication apparatus is not connected to the network nor to an intermediary device, it is respectfully submitted that the cited references fail to render claim 1 obvious.

As the Examiner has failed to provide references that teach or suggest all of the elements of the claimed invention as set forth in claim 1, as amended, it is respectfully submitted that the Examiner has failed to establish *prima facie* obviousness under 35 U.S.C. § 103. As such, it is respectfully requested that the outstanding rejection be withdrawn.

With regard to the Examiner's rejection of claim 2, in response to Applicant's arguments in the Reply filed on January 5, 2004, that *Okazaki et al.* fails to teach or suggest the connection control means, the Examiner asserts it is well known to one of ordinary skill in the art that the connection between the requesting device and the server is broken after transferring the requested hypertext data in an HTTP server. The Examiner concludes that the time of transferring data is also a time to connect the receiving device to the network to establish online operation so that the requested hypertext data can be transmitted to the receiving device at the specified time. Applicant respectfully disagrees with this assertion.

Assuming, *arguendo*, the Examiner's allegation regarding the connection being broken after the transfer is done, then *Okazaki et al.* at most merely discloses a disconnect time, not a connection time to establish online operation. The disclosure of *Okazaki et al.* is only directed to on-line operations. *Okazaki et al.* is completely silent about when these on-line operations occur or about when the data communication apparatus is connected to the network. There is no teaching or suggestion in *Okazaki et al.* that is directed to a connection control means which connects the data communication apparatus to the network to establish on-line operation at a predetermined time and date in accordance with the time and date detected by the clocking means as set forth in claim 2. If the Examiner is taking Official Notice regarding this claim element, this Official Notice is respectfully traversed and the Examiner is respectfully requested to provide Applicant with a properly combinable reference that teaches or suggests this claimed element, together with the appropriate motivation to combine.

As *Ludtke et al.* fails to cure the deficiencies of the teachings of *Okazaki et al.* by failing to teach or suggest this claim element, it is respectfully submitted that the Examiner has failed to establish *prima facie* obviousness under 35 U.S.C. § 103 by failing to provide references that teach or suggest all of the claimed elements. As such, it is respectfully requested that the outstanding rejection be withdrawn.

It is respectfully submitted that claims 2-4 are allowable for the reasons set forth above with regard to claim 1 at least based upon their dependency on claim 1. It is further respectfully submitted that claims 5, 8, 11, 14, 16, and 18-19 contain elements similar to those discussed above with regard to claim 1, and thus these claims, together with claims dependent thereon, are allowable for the reasons set forth above with regard to claim 1.
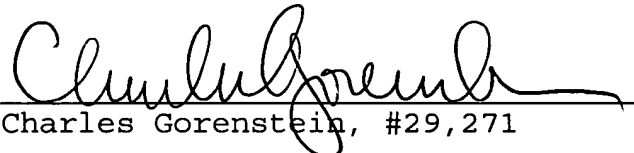
Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinet (Reg. No. 52,327) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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